

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DAVID B. TRACEY *et al.*,

*Plaintiffs,*

v.

No. 1:16-cv-11620-NMG

MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY *et al.*,

*Defendants.*

**PLAINTIFFS' UNOPPOSED  
MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

In accordance with Rule 23(e) of the Federal Rules of Civil Procedure, Plaintiffs respectfully request preliminary approval of a Class Action Settlement. Defendants do not oppose this motion.

On August 9, 2016, Plaintiffs brought this action alleging that Defendants breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") by causing the Massachusetts Institute of Technology Supplemental 401(k) Plan ("Plan") to pay unreasonable recordkeeping and administrative fees and maintaining high-cost and underperforming investment options. Doc. 1. Defendants disputes these allegations and deny liability for any alleged fiduciary breach.

After three years of litigation, adversarial discovery and motion practice, and over four months of arm's length negotiations, on October 28, 2019, the parties entered into a Settlement Agreement. See Exhibit A (Settlement Agreement attached hereto).

Under the terms of the Settlement Agreement, the Settlement Class is defined as:

All persons who participated in the Plan at any time during the Class Period, including any Beneficiary of a deceased person who participated in the Plan at any time during the Class Period, and/or Alternate Payee, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plan at any time during the Class Period.

*Motion allowed, in part, and denied, in part; the Court will approve an award of attorneys' fees not to exceed \$4,525,000 and will base its final award on a comparison of that amount and fees calculated using the lodestar method. JKM/Gorton, USDJ 1/7/20*